

MARITIME POLLUTION PREVENTION ACT OF 2007

MARCH 20, 2007.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. OBERSTAR, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 802]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 802) to amend the Act to Prevent Pollution from Ships to implement MARPOL Annex VI, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Maritime Pollution Prevention Act of 2007”.

SEC. 2. REFERENCES.

Wherever in this Act an amendment or repeal is expressed in terms of an amendment to or a repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.).

SEC. 3. DEFINITIONS.

Section 2(a) (33 U.S.C. 1901(a)) is amended—

(1) by redesignating the paragraphs (1) through (12) as paragraphs (2) through (13), respectively;

(2) by inserting before paragraph (2) (as so redesignated) the following:

“(1) ‘Administrator’ means the Administrator of the Environmental Protection Agency.”;

(3) in paragraph (5) (as so redesignated) by striking “and V” and inserting “V, and VI”;

(4) in paragraph (6) (as so redesignated) by striking “‘discharge’ and ‘garbage’ and ‘harmful substance’ and ‘incident’” and inserting “‘discharge’, ‘emission’, ‘garbage’, ‘harmful substance’, and ‘incident’”; and

(5) by redesignating paragraphs (7) through (13) (as redesignated) as paragraphs (8) through (14), respectively, and inserting after paragraph (6) (as redesignated) the following:

“(7) ‘navigable waters’ includes the territorial sea of the United States (as defined in Presidential Proclamation 5928 of December 27, 1988) and the internal waters of the United States;”.

SEC. 4. APPLICABILITY.

Section 3 (33 U.S.C. 1902) is amended—

(1) in subsection (a)—

(A) by striking “and” at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting “; and”; and

(C) by adding at the end the following:

“(5) with respect to Annex VI to the Convention, and other than with respect to a ship referred to in paragraph (1)—

“(A) to a ship that is in the navigable waters of the United States;

“(B) to a ship that is bound for, or departing from, a port, shipyard, offshore terminal, or the internal waters of the United States, and is in—

“(i) an emission control area designated pursuant to section 4; or

“(ii) any other area that the Administrator, in consultation with the Secretary, has designated by order as being an area from which emissions from ships are of concern with respect to protection of public health, welfare, or the environment;

“(C) to a ship that is entitled to fly the flag of, or operating under the authority of, a party to Annex VI, and is in—

“(i) an emission control area designated under section 4; or

“(ii) any other area that the Administrator, in consultation with the Secretary, has designated by order as being an area from which emissions from ships are of concern with respect to protection of public health, welfare, or the environment; and

“(D) to the extent consistent with international law, to any other ship that is in—

“(i) the exclusive economic zone of the United States;

“(ii) an emission control area designated under section 4; or

“(iii) any other area that the Administrator, in consultation with the Secretary, has designated by order as being an area from which emissions from ships are of concern with respect to protection of public health, welfare, or the environment.”;

(2) in subsection (b)(1) by inserting “or (3)” after “paragraph (2)”;

(3) in subsection (b) by adding at the end the following:

“(3) With respect to Annex VI the Administrator, or the Secretary, as relevant to their authorities pursuant to this Act, may determine that some or all of the requirements under this Act shall apply to one or more classes of public vessels, except that such a determination by the Administrator shall have no effect unless the head of the Department or agency under which the vessels operate concurs in the determination. This paragraph does not apply during time of war or during a declared national emergency.”;

(4) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively, and inserting after subsection (b) the following:

“(c) APPLICATION TO OTHER PERSONS.—This Act shall apply to all persons to the extent necessary to ensure compliance with Annex VI to the Convention.”; and

(5) in subsection (e), as redesignated—

(A) by inserting “or the Administrator, consistent with section 4 of this Act,” after “Secretary”;

(B) by striking “of section (3)” and inserting “of this section”; and

(C) by striking “Protocol, including regulations conforming to and giving effect to the requirements of Annex V” and inserting “Protocol (or the applicable Annex), including regulations conforming to and giving effect to the requirements of Annex V and Annex VI”.

SEC. 5. ADMINISTRATION AND ENFORCEMENT.

Section 4 (33 U.S.C. 1903) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and inserting after subsection (a) the following:

“(b) DUTY OF THE ADMINISTRATOR.—In addition to other duties specified in this Act, the Administrator and the Secretary, respectively, shall have the following duties and authorities:

“(1) The Administrator shall, and no other person may, issue Engine International Air Pollution Prevention certificates in accordance with Annex VI and the International Maritime Organization’s Technical Code on Control of Emissions of Nitrogen Oxides from Marine Diesel Engines, on behalf of the United States for a vessel of the United States as that term is defined in section 116

of title 46, United States Code. The issuance of Engine International Air Pollution Prevention certificates shall be consistent with any applicable requirements of the Clean Air Act or regulations prescribed under that Act.

“(2) The Administrator shall have authority to administer regulations 12, 13, 14, 15, 16, 17, 18, and 19 of Annex VI to the Convention.

“(3) The Secretary and the Administrator shall coordinate on the administration and enforcement of Annex VI to the Convention.”;

(2) in subsection (c), as redesignated, by redesignating paragraph (2) as paragraph (4), and inserting after paragraph (1) the following:

“(2) In addition to the authority the Secretary has to prescribe regulations under this Act, the Administrator shall also prescribe any necessary or desired regulations to carry out the provisions of regulations 12, 13, 14, 15, 16, 17, 18, and 19 of Annex VI to the Convention.

“(3) In prescribing any regulations under this section, the Secretary and the Administrator shall consult with each other, and with respect to regulation 19, with the Secretary of the Interior.”; and

(3) by adding at the end of subsection (c), as redesignated, the following:

“(5) No standard issued by any person or Federal authority, with respect to emissions from tank vessels subject to regulation 15 of Annex VI to the Convention, shall be effective until 6 months after the required notification to the International Maritime Organization by the Secretary.”.

SEC. 6. CERTIFICATES.

Section 5 (33 U.S.C. 1904) is amended—

(1) in subsection (a) by striking “The Secretary” and inserting “Except as provided in section 4(b)(1), the Secretary”;

(2) in subsection (b) by striking “Secretary under the authority of the MARPOL protocol.” and inserting “Secretary or the Administrator under the authority of this Act.”; and

(3) in subsection (e) by striking “environment.” and inserting “environment or the public health and welfare.”.

SEC. 7. RECEPTION FACILITIES.

Section 6 (33 U.S.C. 1905) is amended—

(1) in subsection (a) by adding at the end the following:

“(3) The Secretary or the Administrator, after consulting with appropriate Federal agencies, shall prescribe regulations setting criteria for determining the adequacy of reception facilities for receiving ozone depleting substances, equipment containing such substances, and exhaust gas cleaning residues at a port or terminal, and stating any additional measures and requirements as are appropriate to ensure such adequacy. Persons in charge of ports and terminals shall provide reception facilities, or ensure that reception facilities are available, in accordance with those regulations. The Secretary or the Administrator may prescribe regulations to certify, and may issue certificates to the effect, that a port’s or terminal’s facilities for receiving ozone depleting substances, equipment containing such substances, and exhaust gas cleaning residues from ships are adequate.”;

(2) in subsection (b) by inserting “or the Administrator” after “Secretary”;

(3) in subsection (e) by striking paragraph (2) and inserting the following:

“(2) The Secretary may deny the entry of a ship to a port or terminal required by the MARPOL Protocol, this Act, or regulations prescribed under this section relating to the provision of adequate reception facilities for garbage, ozone depleting substances, equipment containing those substances, or exhaust gas cleaning residues, if the port or terminal is not in compliance with the MARPOL Protocol, this Act, or those regulations.”;

(4) in subsection (f)(1) by striking “Secretary is” and inserting “Secretary and the Administrator are”; and

(5) in subsection (f)(2) by striking “(A)”.

SEC. 8. INSPECTIONS.

Section 8(f) (33 U.S.C. 1907(f)) is amended to read as follows:

“(f)(1) The Secretary may inspect a ship to which this Act applies as provided under section 3(a)(5), to verify whether the ship is in compliance with Annex VI to the Convention and this Act.

“(2) If an inspection under this subsection or any other information indicates that a violation has occurred, the Secretary, or the Administrator in a matter referred by the Secretary, may undertake enforcement action under this section.

“(3) Notwithstanding subsection (b) and paragraph (2) of this subsection, the Administrator shall have all of the authorities of the Secretary, as specified in subsection (b) of this section, for the purposes of enforcing regulations 17 and 18 of Annex VI to the Convention to the extent that shoreside violations are the subject

of the action and in any other matter referred to the Administrator by the Secretary.”.

SEC. 9. AMENDMENTS TO THE PROTOCOL.

Section 10(b) (33 U.S.C. 1909(b)) is amended by inserting “or the Administrator as provided for in this Act,” after “Secretary,”.

SEC. 10. PENALTIES.

Section 9 (33 U.S.C. 1908) is amended—

- (1) by striking “Protocol,” each place it appears and inserting “Protocol,”;
- (2) in subsection (b)—
 - (A) by inserting “, or the Administrator as provided for in this Act” after “Secretary” the first place it appears;
 - (B) in paragraph (2), by inserting “, or the Administrator as provided for in this Act,” after “Secretary”; and
 - (C) in the matter after paragraph (2)—
 - (i) by inserting “, or the Administrator as provided for in this Act” after “Secretary” the first place it appears; and
 - (ii) by inserting “, or the Administrator as provided for in this Act,” after “Secretary” the second and third places it appears;
- (3) in subsection (c), by inserting “, or the Administrator as provided for in this Act,” after “Secretary” each place it appears; and
- (4) in subsection (f), by inserting “, or the Administrator as provided for in this Act” after “Secretary” the first place appears.

SEC. 11. EFFECT ON OTHER LAWS.

Section 15 (33 U.S.C. 1911) is amended to read as follows:

“SEC. 15. EFFECT ON OTHER LAWS.

“Authorities, requirements, and remedies of this Act supplement and neither amend nor repeal any other authorities, requirements, or remedies conferred by any other provision of law. Nothing in this Act shall limit, deny, amend, modify, or repeal any other authority, requirement, or remedy available to the United States or any other person, except as expressly provided in this Act.”.

Amend the title so as to read:

A bill to amend the Act to Prevent Pollution from Ships to implement MARPOL Annex VI.

PURPOSE OF THE LEGISLATION

H.R. 802, the Maritime Pollution Prevention Act of 2007, implements vessel emission standards that were agreed to under Annex VI to the International Convention for the Prevention of Pollution from Ships (MARPOL Convention) for purposes of United States law.

BACKGROUND AND NEED FOR THE LEGISLATION

In 1997, the International Maritime Organization adopted Annex VI to the International Convention for the Prevention of Pollution from Ships (MARPOL Convention), which establishes international regulations that set limits on sulfur oxide and nitrogen oxide emissions from ship exhausts and prohibits deliberate emissions of ozone depleting substances. In April 2006, the Senate acceded to the treaty by unanimous consent. Annex VI entered into force internationally on May 19, 2006.

Under the Act to Prevent Pollution from Ships, the U.S. Coast Guard currently enforces Annexes I, II, and V to the MARPOL Convention on U.S.-flag and foreign-flag vessels operating in the navigable waters of the United States. The Coast Guard also enforces regulations that require ports and terminals to provide adequate access to trash receptacle facilities. Any violations of these regulations found by the Coast Guard may result in administrative, civil, or criminal actions.

H.R. 802 amends the Act to Prevent Pollution from Ships to require the Coast Guard and the Environmental Protection Agency to administer and enforce vessel emission standards and requirements that are outlined under Annex VI to the MARPOL Convention.

SUMMARY OF THE LEGISLATION

H.R. 802, the Maritime Pollution Prevention Act of 2007, requires the Coast Guard and the Environmental Protection Agency (EPA) to prescribe regulations to implement vessel air emission standards and requirements that are outlined under Annex VI to the MARPOL Convention. The Convention applies to marine diesel engines rated above 130 kilowatts (175 horsepower) that are purchased or modified after January 1, 2000. In October 1999, the EPA established a voluntary certification program so engine manufacturers could show that they have compliant engines. EPA believes that all marine diesel engines above 130 kilowatts sold in the U.S. since January 1, 2000, meet the requirements of MARPOL Annex VI.

The bill requires the EPA, in consultation with the Coast Guard, to promulgate regulations to establish standards for nitrogen oxides (NO_x), sulfur oxides (SO_x), and volatile organic compounds and quality standards for vessel fuel oil. H.R. 802 does not transfer any Coast Guard authorities under current law regarding the promulgation, administration, or enforcement of regulations regarding vessel requirements under MARPOL Annexes I, II, and V, Annex IV to the Antarctic Protocol, or the Act to Prevent Pollution from Ships.

Section 1. Short title

Section 1 states that the legislation may be referred to as the “Maritime Pollution Prevention Act of 2007”.

Section 2. References

Section 2 clarifies that any reference to a section or other provision refers to a section or other provision of the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.)

Section 3. Definitions

Section 3 adds a definition of “Administrator” to the Act and makes several conforming changes to existing law to reflect the adoption of MARPOL Annex VI.

Section 4. Applicability

Section 4 establishes applicability for vessel air emission regulations issued under section 4 of the Act to Prevent Pollution from Ships. Under this section, U.S. vessels and foreign vessels that are operating in the territorial sea, in emission control areas, and in areas designated by the Administrator, in consultation with the Secretary of the department in which the Coast Guard is operating, are required to comply with vessel air emission regulations that are issued by the Coast Guard and EPA. This section applies Annex VI to the U.S. Exclusive Economic Zone to the extent that this is consistent with international law. This section also authorizes, but does not require, heads of each Federal department or

agency to determine that some or all of the requirements apply regarding vessel air emissions for public vessels operated under that department or agency's authority. Section 17 of the Act to Prevent Pollution from Ships already states that any action taken under that Act must be taken in accordance with international law. Therefore, this limitation also applies to these amendments to that Act.

Under Annex VI to the MARPOL Convention signatory nations are only required to apply vessel air emission standards regarding NO_x to vessels with marine engines rated above 130 kilowatts, or 175 horsepower. The Committee does not intend to apply standards under Annex VI to the MARPOL Convention to any vessel equipped with an engine below this threshold.

Section 5. Administration and enforcement

Section 5 requires the Secretary of the department in which the Coast Guard is operating and the Administrator of the Environmental Protection Agency to prescribe regulations to carry out Annex VI to the MARPOL Convention. In accordance with Annex VI, this section also prohibits any standard regarding the emission of volatile organic compounds from vessels from taking effect until six months after the International Maritime Organization has been notified that such standards have been established. Section 5 also prohibits any person other than the Administrator of the Environmental Protection Agency from issuing an Engine International Air Pollution Prevention Certificate on behalf of the United States for U.S.-flag vessels and requires that such certificates are issued consistently with regulations and requirements under the Clean Air Act.

Section 6. Certificates

Section 6 requires that each vessel greater than 400 gross tons and each offshore terminal be issued an International Air Pollution Prevention Certificate to certify that the equipment in the vessel is in compliance with all applicable requirements under MARPOL Annex VI and an Engine International Air Pollution Prevention Certificate to certify that each engine or engine group is in compliance with NO_x standards under Regulation 13 of Annex VI to the Convention. This section also includes language that recognizes, for purposes of compliance under U.S. law, a certificate issued by another nation that is party to the MARPOL protocol. Section 5(b) of the Act to Prevent Pollution from Ships states that "[a] certificate issued by a country which is a party to the MARPOL Protocol has the same validity as a certificate issued by the Secretary under the authority of the MARPOL protocol." This subsection also applies to certificates issued by foreign governments under MARPOL Annex VI.

Section 7. Reception facilities

Section 7 requires the Secretary of the department in which the Coast Guard is operating or the EPA Administrator to prescribe regulations that require ports and terminals to provide or ensure the availability of adequate reception facilities for ozone depleting substances, equipment containing such substances and exhaust cleaning residues. This section also authorizes the Coast Guard to

deny a vessel entry into a port or terminal that, in the Coast Guard's determination, is not in compliance with such regulations.

Section 8. Inspections

Section 8 authorizes the Coast Guard to carry out inspections to verify that vessels are in compliance with requirements under MARPOL Annex VI and to carry out enforcement actions for violations of such requirements and regulations.

Section 9. Amendments to the protocol

Section 9 makes a conforming change to current law to reflect the adoption of MARPOL Annex VI.

Section 10. Penalties

Section 10 authorizes the Administrator of EPA, in addition to the Coast Guard, to assess civil penalties for violations of Annex VI.

Section 11. Effect on other laws

Section 11 includes language that clarifies that authorities, requirements, and remedies that are provided under the Act to Prevent Pollution from Ships do not amend or repeal any authorities, requirements, and remedies provided under any other provision of law, including the Clean Air Act of 1990 and the rights of States under that Act.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

In the 110th Congress, Committee on Transportation and Infrastructure Chairman Oberstar and Subcommittee on Coast Guard and Maritime Transportation Chairman Cummings introduced H.R. 802, the Maritime Pollution Prevention Act. On February 7, 2007, the Committee on Transportation and Infrastructure met in open session to consider H.R. 802. During consideration of the bill, the Committee adopted by voice vote an amendment in the nature of a substitute that clarified that application of MARPOL Annex VI applied in the U.S. Exclusive Economic Zone to the extent consistent with international law; clarified that the head of any Federal agency must agree to the application of Annex VI to vessels operated by that agency before the Annex applies to those vessels; and clarified that only the U.S. Government can issue an air quality emissions certificate for U.S.-flag vessels. The Committee on Transportation and Infrastructure ordered H.R. 802 reported favorably to the House by voice vote.

In the 109th Congress, H.R. 5811, the MARPOL Annex VI Implementation Act of 2006, was introduced by the bipartisan leadership of the Committee. The Subcommittee on Coast Guard and Maritime Transportation held a legislative hearing on July 11, 2006, to review a draft bill which was nearly identical to H.R. 5811, as introduced. During a Full Committee markup on July 19, 2006, the Subcommittee was discharged from further consideration of the bill. At the markup, the Committee adopted by voice vote an en bloc amendment that gave the EPA limited authorities to issue regulations, in consultation with the Coast Guard, regarding the emissions of nitrogen oxides, sulfur oxides, and volatile organic compounds and the use of an improved quality of fuel oil by vessels

covered by MARPOL Annex VI and the Act to Prevent Pollution from Ships. The bill, as amended, was ordered reported favorably to the House by voice vote. On September 28, 2006, H.R. 5681, the Coast Guard Authorization Act of 2006, was amended on the floor of the House to add the text of H.R. 5811. H.R. 5681 passed the House by voice vote.

RECORD VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes during consideration of the bill. A motion to order H.R. 802, as amended, reported favorably to the House was agreed to by voice vote with a quorum present.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals of H.R. 802 are to implement vessel emission standards and requirements under MARPOL Annex VI for purposes of U.S. law.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 802 from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 12, 2007.

Hon. JAMES L. OBERSTAR,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 802, the Maritime Pollution Prevention Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Deborah Reis and Susanne Mehlman.

Sincerely,

PETER R. ORSZAG,
Director.

Enclosure.

H.R. 802—Maritime Pollution Prevention Act of 2007

H.R. 802 would implement the Protocol of 1997 to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL). Based on information provided by the U.S. Coast Guard (USCG) and the Environmental Protection Agency (EPA), CBO estimates that implementing H.R. 802 would cost about \$4 million over the next five years, subject to the availability of appropriated funds. Enacting the bill would not affect direct spending or revenues.

Under H.R. 802, EPA and the USCG would establish regulations to implement MARPOL Annex VI, which addresses air pollution from ships. Both EPA and the USCG would be authorized to enforce those regulations, which would affect pollution from marine fuels. Based on information provided by EPA, CBO estimates that developing new regulations would cost that agency \$2 million over the next three years and that ongoing enforcement activities would cost \$1 million annually thereafter. We estimate that implementing the bill would have no significant effect on the Coast Guard's operating budget because that agency already has enforcement responsibilities under MARPOL that would probably not change significantly.

CBO has not reviewed the bill for the presence of intergovernmental or private-sector mandates. Section 4 of the Unfunded Mandates Reform Act excludes from the application of that act any legislative provisions that are necessary for the ratification or implementation of international treaty obligations. CBO has determined that the legislation falls within that exclusion because it would implement Annex VI of the MARPOL Convention.

The CBO staff contacts for this estimate are Deborah Reis and Susanne Mehlman. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH HOUSE RULE XXI

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 802, the Maritime Pollution Prevention Act of 2007, does not contain any congressional earmarks, limited tax

benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI of the Rules of the House of Representatives.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 802 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT TO PREVENT POLLUTION FROM SHIPS

* * * * *

SEC. 2. (a) Unless the context indicates otherwise, as used in this Act—

(1) “Administrator” means the Administrator of the Environmental Protection Agency.

[(1)] (2) “Antarctica” means the area south of 60 degrees south latitude;

[(2)] (3) “Antarctic Protocol” means the Protocol on Environmental Protection to the Antarctic Treaty, signed October 4, 1991, in Madrid, and all annexes thereto, and includes any future amendments thereto which have entered into force;

[(3)] (4) “MARPOL Protocol” means the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, and includes the Convention;

[(4)] (5) “Convention” means the International Convention for the Prevention of Pollution from Ships, 1973, including Protocols I and II and Annexes I, II, [and V] V, and VI thereto, including any modification or amendments to the Convention, Protocols or Annexes which have entered into force for the United States;

[(5)] “discharge” and “garbage” and “harmful substance” and “incident”] (6) “*discharge*”, “*emission*”, “*garbage*”, “*harmful substance*”, and “*incident*” shall have the meanings provided in the Convention;

(7) “*navigable waters*” includes the territorial sea of the United States (as defined in Presidential Proclamation 5928 of December 27, 1988) and the internal waters of the United States;

[(6)] (8) “owner” means any person holding title to, or in the absence of title, any other indicia of ownership of, a ship or terminal, but does not include a person who, without participating in the management or operation of a ship or terminal, holds indicia of ownership primarily to protect a security interest in the ship or terminal;

[(7)] (9) “operator” means—

(a) * * *

* * * * *

[(8)] (10) “person” means an individual, firm, public or private corporation, partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body;

[(9)] (11) “Secretary” means the Secretary of the department in which the Coast Guard is operating;

[(10)] (12) “ship” means a vessel of any type whatsoever, including hydrofoils, air-cushion vehicles, submersibles, floating craft whether self-propelled or not, and fixed or floating platforms;

[(11)] (13) “submersible” means a submarine, or any other vessel designed to operate under water; and

[(12)] (14) “terminal” means an onshore facility or an offshore structure located in the navigable waters of the United States or subject to the jurisdiction of the United States and used, or intended to be used, as a port or facility for the transfer or other handling of a harmful substance.

SEC. 3. (a) This Act shall apply—

(1) * * *

* * * * *

(3) with respect to the requirements of Annex V to the Convention, to a ship, other than a ship referred to in paragraph (1), while in the navigable waters or the exclusive economic zone of the United States; [and]

(4) with respect to regulations prescribed under section 6 of this Act, any port or terminal in the United States~~].~~ and

(5) *with respect to Annex VI to the Convention, and other than with respect to a ship referred to in paragraph (1)—*

(A) *to a ship that is in the navigable waters of the United States;*

(B) *to a ship that is bound for, or departing from, a port, shipyard, offshore terminal, or the internal waters of the United States, and is in—*

(i) *an emission control area designated pursuant to section 4; or*

(ii) *any other area that the Administrator, in consultation with the Secretary, has designated by order as being an area from which emissions from ships are of concern with respect to protection of public health, welfare, or the environment;*

(C) *to a ship that is entitled to fly the flag of, or operating under the authority of, a party to Annex VI, and is in—*

(i) *an emission control area designated under section 4; or*

(ii) *any other area that the Administrator, in consultation with the Secretary, has designated by order as being an area from which emissions from ships are of concern with respect to protection of public health, welfare, or the environment; and*

(D) *to the extent consistent with international law, to any other ship that is in—*

(i) *the exclusive economic zone of the United States;*

(ii) *an emission control area designated under section 4; or*

(iii) *any other area that the Administrator, in consultation with the Secretary, has designated by order as being an area from which emissions from ships are of concern with respect to protection of public health, welfare, or the environment.*

(b)(1) Except as provided in paragraph (2) or (3), this Act shall not apply to—

(A) * * *

* * * * *

(3) *With respect to Annex VI the Administrator, or the Secretary, as relevant to their authorities pursuant to this Act, may determine that some or all of the requirements under this Act shall apply to one or more classes of public vessels, except that such a determination by the Administrator shall have no effect unless the head of the Department or agency under which the vessels operate concurs in the determination. This paragraph does not apply during time of war or during a declared national emergency.*

(c) APPLICATION TO OTHER PERSONS.—*This Act shall apply to all persons to the extent necessary to ensure compliance with Annex VI to the Convention.*

[(c)] (d) DISCHARGES IN SPECIAL AREAS.—(1) Except as provided in paragraphs (2) and (3), not later than December 31, 2000, all surface ships owned or operated by the Department of the Navy, and not later than December 31, 2008, all submersibles owned or

operated by the Department of the Navy, shall comply with the special area requirements of Regulation 5 of Annex V to the Convention.

* * * * *

[(d)] (e) The Secretary or the Administrator, consistent with section 4 of this Act, shall prescribe regulations applicable to the ships of a country not a party to the MARPOL [Protocol, including regulations conforming to and giving effect to the requirements of Annex V] Protocol (or the applicable Annex), including regulations conforming to and giving effect to the requirements of Annex V and Annex VI as they apply under subsection (a) [of section 3] of this section, to ensure that their treatment is not more favorable than that accorded ships to parties to the MARPOL Protocol.

[(e)] (f) COMPLIANCE BY EXCLUDED VESSELS.—(1) The Secretary of the Navy shall develop and, as appropriate, support the development of technologies and practices for solid waste management aboard ships owned or operated by the Department of the Navy, including technologies and practices for the reduction of the waste stream generated aboard such ships, that are necessary to ensure the compliance of such ships with Annex V to the Convention on or before the dates referred to in subsections (b)(2)(A) and (c)(1) of this section.

* * * * *

[(f)] (g) WAIVER AUTHORITY.—The President may waive the effective dates of the requirements set forth in subsection (c) of this section and in subsection 1003(e) of the National Defense Authorization Act for Fiscal Year 1994 if the President determines it to be in the paramount interest of the United States to do so. Any such waiver shall be for a period not in excess of one year. The President shall submit to the Congress each January a report on all waivers from the requirements of this section granted during the preceding calendar year, together with the reasons for granting such waivers.

[(g)] (h) The heads of Federal departments and agencies shall prescribe standards applicable to ships excluded from this Act by subsection (b)(1) of this section and for which they are responsible. Standards prescribed under this subsection shall ensure, so far as is reasonable and practicable without impairing the operations or operational capabilities of such ships, that such ships act in a manner consistent with the MARPOL Protocol.

SEC. 4. (a) * * *

(b) DUTY OF THE ADMINISTRATOR.—In addition to other duties specified in this Act, the Administrator and the Secretary, respectively, shall have the following duties and authorities:

(1) The Administrator shall, and no other person may, issue Engine International Air Pollution Prevention certificates in accordance with Annex VI and the International Maritime Organization's Technical Code on Control of Emissions of Nitrogen Oxides from Marine Diesel Engines, on behalf of the United States for a vessel of the United States as that term is defined in section 116 of title 46, United States Code. The issuance of Engine International Air Pollution Prevention certificates shall be consistent with any applicable requirements of the Clean Air Act or regulations prescribed under that Act.

(2) *The Administrator shall have authority to administer regulations 12, 13, 14, 15, 16, 17, 18, and 19 of Annex VI to the Convention.*

(3) *The Secretary and the Administrator shall coordinate on the administration and enforcement of Annex VI to the Convention.*

[(b)] (c)(1) The Secretary shall prescribe any necessary or desired regulations to carry out the provisions of the MARPOL Protocol, Annex IV to the Antarctic Protocol, or this Act.

(2) *In addition to the authority the Secretary has to prescribe regulations under this Act, the Administrator shall also prescribe any necessary or desired regulations to carry out the provisions of regulations 12, 13, 14, 15, 16, 17, 18, and 19 of Annex VI to the Convention.*

(3) *In prescribing any regulations under this section, the Secretary and the Administrator shall consult with each other, and with respect to regulation 19, with the Secretary of the Interior.*

[(2)] (4) The Secretary of the department in which the Coast Guard is operating shall—

(A) * * *

* * * * *

(5) *No standard issued by any person or Federal authority, with respect to emissions from tank vessels subject to regulation 15 of Annex VI to the Convention, shall be effective until 6 months after the required notification to the International Maritime Organization by the Secretary.*

[(c)] (d) The Secretary may utilize by agreement, with or without reimbursement, personnel, facilities, or equipment of other Federal departments and agencies in administering the MARPOL Protocol, this Act, or the regulations thereunder.

SEC. 5. (a) [The Secretary] *Except as provided in section 4(b)(1), the Secretary shall designate those persons authorized to issue on behalf of the United States the certificates required by the MARPOL Protocol. A certificate required by the MARPOL Protocol shall not be issued to a ship which is registered in or of the nationality of a country which is not a party to the MARPOL Protocol.*

(b) *A certificate issued by a country which is a party to the MARPOL Protocol has the same validity as a certificate issued by the [Secretary under the authority of the MARPOL Protocol.] Secretary or the Administrator under the authority of this Act.*

* * * * *

(e) *In addition to the penalties prescribed in section 9 of the Act, a ship required by the MARPOL Protocol to have a certificate—*

(1) *which does not have a valid certificate onboard; or*

(2) *whose condition or whose equipment's condition does not substantially agree with the particulars of the certificate onboard;*

shall be detained by order of the Secretary at the port or terminal where the violation is discovered until, in the opinion of the Secretary, the ship can proceed to sea without presenting an unreasonable threat of harm to the marine [environment.] environment or the public health and welfare. The detention order may authorize the ship to proceed to the nearest appropriate available shipyard

rather than remaining at the place where the violation was discovered.

* * * * *

SEC. 6. (a)(1) * * *

* * * * *

(3) *The Secretary or the Administrator, after consulting with appropriate Federal agencies, shall prescribe regulations setting criteria for determining the adequacy of reception facilities for receiving ozone depleting substances, equipment containing such substances, and exhaust gas cleaning residues at a port or terminal, and stating any additional measures and requirements as are appropriate to ensure such adequacy. Persons in charge of ports and terminals shall provide reception facilities, or ensure that reception facilities are available, in accordance with those regulations. The Secretary or the Administrator may prescribe regulations to certify, and may issue certificates to the effect, that a port's or terminal's facilities for receiving ozone depleting substances, equipment containing such substances, and exhaust gas cleaning residues from ships are adequate.*

(b) In determining the adequacy of reception facilities required by the MARPOL Protocol or the Antarctic Protocol at a port or terminal, and in establishing regulations under subsection (a) of this section, the Secretary or the Administrator may consider, among other things, the number and types of ships or seagoing ships using the port or terminal, including their principal trades.

* * * * *

(e)(1) * * *

[(2) The Secretary may deny the entry of a ship to a port or terminal required by regulations issued under this section to provide adequate reception facilities for garbage if the port or terminal is not in compliance with those regulations.]

(2) *The Secretary may deny the entry of a ship to a port or terminal required by the MARPOL Protocol, this Act, or regulations prescribed under this section relating to the provision of adequate reception facilities for garbage, ozone depleting substances, equipment containing those substances, or exhaust gas cleaning residues, if the port or terminal is not in compliance with the MARPOL Protocol, this Act, or those regulations.*

(f)(1) The [Secretary is] *Secretary and the Administrator* are authorized to conduct surveys of existing reception facilities in the United States to determine measures needed to comply with the MARPOL Protocol or the Antarctic Protocol.

(2)[(A)] Not later than 18 months after the date of enactment of the Coast Guard Authorization Act of 1996, the Secretary shall promulgate regulations that require the operator of each port or terminal that is subject to any requirement of the MARPOL Protocol relating to reception facilities to post a placard in a location that can easily be seen by port and terminal users. The placard shall state, at a minimum, that a user of a reception facility of the port or terminal should report to the Secretary any inadequacy of the reception facility.

* * * * *

SEC. 8. (a) * * *

* * * * *

[(f) Remedies and requirements of this Act supplement and neither amend nor repeal any other provisions of law, except as expressly provided in this Act. Nothing in this Act shall limit, deny, amend, modify, or repeal any other remedy available to the United States or any other person, except as expressly provided in this Act.]

(f)(1) The Secretary may inspect a ship to which this Act applies as provided under section 3(a)(5), to verify whether the ship is in compliance with Annex VI to the Convention and this Act.

(2) If an inspection under this subsection or any other information indicates that a violation has occurred, the Secretary, or the Administrator in a matter referred by the Secretary, may undertake enforcement action under this section.

(3) Notwithstanding subsection (b) and paragraph (2) of this subsection, the Administrator shall have all of the authorities of the Secretary, as specified in subsection (b) of this section, for the purposes of enforcing regulations 17 and 18 of Annex VI to the Convention to the extent that shoreside violations are the subject of the action and in any other matter referred to the Administrator by the Secretary.

SEC. 9. (a) A person who knowingly violates the MARPOL [Protocol,,] Protocol, Annex IV to the Antarctic Protocol, This Act, or the regulations issued thereunder commits a class D felony. In the discretion of the Court, an amount equal to not more than $\frac{1}{2}$ of such fine may be paid to the person giving information leading to conviction.

(b) A person who is found by the Secretary, or the Administrator as provided for in this Act, after notice and an opportunity for a hearing, to have—

(1) violated the MARPOL [Protocol,,] Protocol, Annex IV to the Antarctic Protocol, this Act, or the regulations issued thereunder shall be liable to the United States for a civil penalty, not to exceed \$25,000 for each violation; or

(2) made a false, fictitious, or fraudulent statement or representation in any matter in which a statement or representation is required to be made to the Secretary, or the Administrator as provided for in this Act, under the MARPOL [Protocol,,] Protocol, Annex IV to the Antarctic Protocol, this Act, or the regulations thereunder, shall be liable to the United States for a civil penalty, not to exceed \$5,000 for each statement or representation.

Each day of a continuing violation shall constitute a separate violation. The amount of the civil penalty shall be assessed by the Secretary, or the Administrator as provided for in this Act, or his designee, by written notice. In determining the amount of the penalty, the Secretary, or the Administrator as provided for in this Act, shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters as justice may require. An amount equal to not more than $\frac{1}{2}$ of such penalties may be paid by the Secretary, or the Administrator as provided for in this Act, to the person giving information leading to the assessment of such penalties.

(c) The Secretary, *or the Administrator as provided for in this Act*, may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to assessment or which has been assessed under this section. If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary, *or the Administrator as provided for in this Act*, may refer the matter to the Attorney General of the United States for collection in any appropriate district court of the United States.

(d) A ship operated in violation of the MARPOL [Protocol,,] *Protocol*, Annex IV to the Antarctic Protocol, this Act, or the regulations thereunder is liable in rem for any fine imposed under subsection (a) or civil penalty assessed pursuant to subsection (b), and may be proceeded against in the United States district court of any district in which the ship may be found.

* * * * *

(f) Notwithstanding subsection (a), (b), or (d) of this section, if the violation is by a ship registered in or of the nationality of a country party to the MARPOL Protocol or the Antarctic Protocol, or one operated under the authority of a country party to the MARPOL Protocol or the Antarctic Protocol, the Secretary, *or the Administrator as provided for in this Act*, acting in coordination with the Secretary of State, may refer the matter to the government of the country of the ship's registry or nationality, or under whose authority the ship is operating for appropriate action, rather than taking the actions required or authorized by this section.

SEC. 10. (a) * * *

(b) A proposed amendment to Annex I, II, or V to the Convention, appendices to those Annexes, or Protocol I of the Convention received by the United States from the Secretary-General of the International Maritime Organization pursuant to Article VI of the MARPOL Protocol, may be the subject of appropriate action on behalf of the United States by the Secretary of State following consultation with the Secretary, *or the Administrator as provided for in this Act*, who shall inform the Secretary of State as to what action he considers appropriate at least 30 days prior to the expiration of the period specified in Article VI of the MARPOL Protocol during which objection may be made to any amendment received.

* * * * *

【SEC. 15. Nothing in this Act shall be construed as limiting, diminishing, or otherwise restricting any of the authority of the Secretary under the Port and Tanker Safety Act of 1978 (Public Law 95-474).】

SEC. 15. EFFECT ON OTHER LAWS.

Authorities, requirements, and remedies of this Act supplement and neither amend nor repeal any other authorities, requirements, or remedies conferred by any other provision of law. Nothing in this Act shall limit, deny, amend, modify, or repeal any other authority, requirement, or remedy available to the United States or any other person, except as expressly provided in this Act.

* * * * *

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ONE HUNDRED TENTH CONGRESS

U.S. House of Representatives
Committee on Energy and Commerce
 Washington, DC 20515-6115

JOHN D. DINGELL, MICHIGAN
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March 20, 2007

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The Honorable James L. Oberstar
 Chairman
 Committee on Transportation and Infrastructure
 2165 Rayburn House Office Building
 Washington, D.C. 20515

Dear Chairman Oberstar:

I write regarding H.R. 802, the "Maritime Pollution Prevention Act of 2007", which is legislation to implement vessel emission standards that were agreed to under Annex VI to the International Convention for the Prevention of Pollution from Ships (MARPOL Convention) for purposes of United States law.

The bill contains provisions that fall within the jurisdiction of the Committee on Energy and Commerce. I support passage of the bill, and I recognize and appreciate your desire to bring it up on the House floor in an expeditious manner. The Committee will not seek a sequential referral of the bill. This decision is based on my understanding that you have agreed that the inaction of the Committee with respect to the bill does not in any way serve as a jurisdictional precedent as to our two committees.

Further, as to any House-Senate conference on the bill, the Committee on Energy and Commerce reserves the right to seek the appointment of conferees for consideration of portions of the bill that are within the Committee's jurisdiction. It is my understanding that you have agreed to support a request by the Committee with respect to serving as conferees on this bill or similar legislation.

I ask that you send me a letter confirming our agreements as to jurisdiction, including with respect to conferees, and that our exchange of letters be included in your Committee's report on the bill.

The Honorable James L. Oberstar
Page 2

I look forward to working with you on this important clean air legislation. If you wish to discuss this matter further, please contact me or have your staff contact the staff of this Committee.

Sincerely,



JOHN D. DINGELL
CHAIRMAN

cc: The Honorable Joe Barton, Ranking Member
Committee on Energy and Commerce



U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

James L. Oberstar
Chairman

John L. Mica
Ranking Republican Member

David Heymsfeld, Chief of Staff
Ward W. McCarragher, Chief Counsel

March 20, 2007

James W. Coon II, Republican Chief of Staff

The Honorable John D. Dingell
Chairman
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

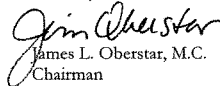
Dear Chairman Dingell:

Thank you for your March 20, 2007 letter regarding H.R. 802, the Maritime Pollution Prevention Act of 2007. Your support for this legislation and your assistance in ensuring its timely consideration are greatly appreciated.

I agree that there are certain provisions in the bill that are of jurisdictional interest to the Committee on Energy and Commerce. I acknowledge that by forgoing a sequential referral, your Committee is not relinquishing its jurisdiction and I will fully support your request to be represented in a House-Senate conference on those provisions over which the Committee on Energy and Commerce has jurisdiction in H.R. 802.

I value your cooperation and look forward to working with you as we move ahead with this important clean air legislation.

Sincerely,


James L. Oberstar, M.C.
Chairman

cc: The Honorable Nancy Pelosi, Speaker
The Honorable John Sullivan, Parliamentarian

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